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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MICHAEL S. ARNOTT and REX G. MARTIN

Appeal 2010-009193
Application 11/534,569
Technology Center 2400

Before ROBERT E. NAPPI, DEBRA K. STEPHENS, and LYNNE E.
PETTIGREW, *Administrative Patent Judges*.

NAPPI, Administrative Patent Judge

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 1 through 9 and 17 through 24.

We affirm-in-part.

INVENTION

The invention is directed a method which makes use of a product catalog that is accessed by a rules service which permits examinations regarding the health of a system. See paragraphs 0009 through 0012 of Appellants' Specification. Claim 1 is representative of the invention and reproduced below:

1. A computer implemented method for executing a rules service using a product catalog by a rules service engine, the method comprising:
 - identifying at least one rule from the rules service to conduct analysis of a computer system comprising a plurality of components;
 - accessing a product catalog stored in memory to return to the rules service engine a set of product reference data for at least one of the components identified in the rule;
 - collecting input data about the computer system including telemetry data for the at least one of the components;
 - parsing the input data;
 - correlating the parsed input data with the set of product reference data including comparing the collected telemetry data with expected telemetry data for the at least one of the components;
 - responsive to the parsed input data correlating with the identified product reference data, providing to the rules service engine product reference data about the at least one of the plurality of components from the product catalog;
 - responsive to the parsed input data failing to correlate with the identified product reference data, matching another at least one of the plurality of components to the parsed input data by querying the product catalog and providing to the rules service

engine product reference data about the another at least one of the plurality of components; and running the at least one rule.

REJECTIONS AT ISSUE

The Examiner has rejected claim 1 under 35 U.S.C. § 112, second paragraph as being indefinite. Answer 3.¹

The Examiner has rejected claims 1 through 9 and 17 through 24 under 35 U.S.C. § 102(a) as anticipated by Srinivas (U.S. 2006/0150008 A1). Answer 4-10.

ISSUES

Anticipation rejection of claims 1, 3 through 9, and 17 through 20

Appellants argue on pages 7 through 13 of the Appeal Brief that the Examiner's rejection of independent claims 1, 3 through 9, and 17 through 20 under 35 U.S.C. § 103(a) is in error.² These arguments present us with the issues:

- a) Did the Examiner err in finding Srinivas teaches accessing a product catalog stored in memory to provide a set of product reference data to a rules service engine as recited in representative claim 1?

¹ Throughout this opinion we refer to the Examiner's Answer mailed on March 15, 2010.

² Throughout this opinion we refer to Appellants' Appeal Brief filed on December 11, 2009.

- b) Did the Examiner err in finding Srinivas teaches correlating parsed input data with the set of product reference data as recited in representative claim 1?

Anticipation rejection of claim 2

Appellants argue on page 13 of the Appeal Brief that the rejection of claim 2 is in error for the reasons discussed with respect to claim 1 and additionally because claim 2 recites that the product catalog recites a list of product reference data. Thus, with respect to claim 2 we are presented with the additional issue:

- c) did the Examiner err in finding Srinivas teaches a product catalog which recites a list of product reference data?

Anticipation rejection of claims 21 and 22

Appellants' arguments, on pages 14 and 15 of the Appeal Brief that the rejection of claims 21 and 22 is in error present us with the additional issue:

- d) did the Examiner err in finding Srinivas teaches a product catalog which provides contributing factors to the rules engine?

Anticipation rejection of claim 23

Appellants' arguments, on page 15 of the Appeal Brief that the rejection of claim 23 is in error present us with the additional issue:

- e) did the Examiner err in finding Srinivas teaches a rules engine accessing a database to obtain additional information as recited in claim 23?

Anticipation rejection of claim 24

Appellants' arguments, on page 15 of the Appeal Brief that the rejection of claim 24 is in error present us with the additional issue:

- f) did the Examiner err in finding Srinivas teaches a step of determining that the set of factors is incomplete and in response accessing one or more referential sources to identify data as recited in claim 24?

Rejection of claim 1 under 35 U.S.C. § 112, second paragraph

Appellants have not presented any arguments directed to this rejection. Accordingly, there is no issue before us and we sustain this rejection pro forma.

ANALYSIS

Anticipation rejection of claims 1, 3 through 9, and 17 through 20

We have reviewed Appellants' arguments in the Briefs, the Examiner's rejection and the Examiner's response to the Appellants' arguments. We disagree with Appellants' conclusion the Examiner erred in finding that Srinivas teaches accessing a product catalog stored in memory to provide a set of product reference data to a rules service engine and correlating parsed input data with the set of product reference data as recited in claim 1. Appellants present several arguments directed to each of these issues and the Examiner has provided a comprehensive response to each of these arguments on pages 10 through 14 of the Answer. The Examiner equates Srinivas's healthy model and rules database with the claimed product catalog and rules engine. In this response, the Examiner also

provides an explanation as to how Srinivas's rules database interacts with the model in the same manner that the claimed rules engine interacts with the product catalog. We concur with the Examiner's conclusions and findings in the Answer and adopt them as our own. Accordingly, we sustain the Examiner's anticipation rejection of claims 1, 3 through 9, and 17 through 20.

Anticipation rejection of claim 2

Appellants' arguments with respect to claim 2 have not persuaded us the Examiner erred in finding Srinivas teaches a product catalog which recites a list of product reference data. The Examiner finds Srinivas's healthy model provides the rules database with parameters and values associated with components of a computer system which meets the claimed product reference data. Answer 15. We concur with these findings by the Examiner and note that the Appellants have not demonstrated a functional difference between claimed data and the data disclosed by Srinivas.³ Accordingly, we sustain the Examiner's anticipation rejection of claim 2.

³ We note that even if Appellants had shown a difference between the claimed data and the data in the prior art, the Appellants have not shown that this data is related to the substrate or relates to a functional difference in the claimed method. The Examiner need not give patentable weight to descriptive material absent a new and unobvious functional relationship between the descriptive material and the substrate. *See In re Lowry*, 32 F.3d 1579, 1583-84 (Fed. Cir. 1994); *In re Ngai*, 367 F.3d 1336, 1338 (Fed. Cir. 2004) and our decision in *Ex parte Curry*, 84 USPQ2d 1272 (BPAI 2005).

Anticipation rejection of claims 21 and 22

Appellants' arguments with respect to claims 21 and 22 have not persuaded us the Examiner erred in finding Srinivas teaches a product catalog which provides contributing factors to the rules engine. The Examiner provides an explanation supporting the finding that Srinivas's healthy model provides contributing factors to the rules engine. Answer 16-17. We concur with these findings by the Examiner and note as with claim 2 discussed above, Appellants have not demonstrated a functional difference between claimed data and the data disclosed by Srinivas. Accordingly we sustain the Examiner's anticipation rejection of claims 21 and 22.

Anticipation rejection of claim 23

Appellants' arguments with respect to claim 23 have not persuaded us the Examiner erred in finding Srinivas teaches a rules engine accessing a database to obtain additional information as recited in claim 23. The Examiner, in response to this argument, finds that Srinivas teaches the rules database accessing additional information as claimed. Answer 17-18. We concur with the Examiner's finding as it is supported by ample evidence. Additionally, we note Appellants' argument that the specification identifies the rules engine accessing different sources is not commensurate in scope with claim 23. Brief 15. Accordingly, we sustain the Examiner's anticipation rejection of claim 23.

Anticipation rejection of claim 24

Appellants' arguments with respect to claim 24 have persuaded us the Examiner erred in finding Srinivas teaches a teaches a step of determining

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that the set of factors is incomplete and in response accessing one or more referential sources to identify data as recited in claim 24. In response to Appellants' arguments, the Examiner finds that Srinivas teaches constantly or periodically monitoring state information, and that when a user request to diagnose a system is made the system gathers additional information.

Answer 18-19. The Examiner considers this to meet the claim. We disagree; the Examiner has not shown that this gathering of additional information is predicated by a determination that the set of factors is incomplete as recited in claim 24. Accordingly, we will not sustain the Examiner's anticipation rejection of claim 24.

ORDER

The decision of the Examiner to reject claims 1 through 9 and 17 through 23 is affirmed.

The decision of the Examiner to reject claim 24 is reversed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

ELD